

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MRS. BOBBY J. HALL	)	
COMPLAINT AGAINST SHELBY	)	CASE NO.
RURAL ELECTRIC COOPERA-	)	9204
TIVE CORPORATION	)	

ORDER DENYING REHEARING AND MODIFYING  
ORDER DATED FEBRUARY 8, 1985

On February 28, 1985, Shelby RECC filed a Petition for Rehearing of the Order issued February 8, 1985, which resolved this complaint by requiring Shelby RECC to grant Mrs. Bobby J. Hall ("Complainant") a credit for 10,000 kwh. Shelby RECC also filed a Motion requesting an extension of time in which to prepare and file a brief in support of its Petition for Rehearing. The Commission granted Shelby RECC an extension until March 8, 1985, to file a brief and Shelby RECC filed said brief on March 8, 1985.

Shelby RECC's Petition requests the Commission contrast the probability of the Complainant's meter skipping a digit with the probability of the extraordinarily high April 1983 meter reading resulting from several years' accumulation of unreported usage. The petition also raised the issue of whether all billings should be based upon customers' reports instead of current meter readings. In its brief, Shelby RECC argues that to assume that the meter skipped a digit is unreasonable since there was no

physical evidence, such as stripped gears or missing or damaged parts, that are generally observed when meters are found to skip a digit. Shelby RECC also argues that monthly usage data from actual meter readings after the abnormally high April 1983 bill should be given no weight in evaluating whether the meter skipped a digit, thus causing the abnormally high reading. Shelby RECC further argues that use of actual meter readings taken after the abnormally high period may not be considered in evaluating whether a refund is due to the Complainant since 807 KAR 5:041, Section 16(5), should control. Finally, Shelby RECC argues that the Commission has violated 807 KAR 5:041, Section 9, requiring all energy sold to be measured by commercially acceptable measuring devices, by requiring a credit.

The Commission has carefully considered the arguments advanced by Shelby RECC, in light of the evidence of record, and finds them to be without merit for the following reasons:

There is no evidence before the Commission indicating that the Complainant had underreported usage prior to the abnormally high March-April 1983 billing period. Shelby RECC stated that it was not alleging meter tampering against the Complainant, notwithstanding the letter sent by Shelby RECC's manager, Mr. Thomas Barker, to Mr. Claude Rhorer, Director of Utility Engineering and Services on October 17, 1984.<sup>1</sup>

Comparing the Complainant's usage for calendar year 1981 and 1982 with calendar year 1983 indicates an 8,000-10,000 kwh

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<sup>1</sup> Transcript of Evidence ("T.E."), January 16, 1985, at page 94.

variance between 1981 or 1982 and 1983 usage, or approximately a 50 percent increase.<sup>2</sup> 1983 also appeared abnormal when compared to Shelby RECC's estimate of annual electricity usage for this residence of 22,657 kwh.<sup>3</sup> April billings for 1981 and 1982 indicate an abnormally high bill was rendered for April 1983.<sup>4</sup> Shelby RECC concedes that weather cannot account for this discrepancy.<sup>5</sup> Had the Complainant been underbilling by submitting inaccurate meter readings to Shelby RECC from September 1980 when service was initiated, in order to accomplish a 10,000 kwh underbilling accumulation, the Complainant would have been required to underbill by 322 kwh/month, or 3,780 kwh annually, over the 31-month period.

It is highly unlikely that a 10,000 kwh underbilling was accumulated when the calendar year 1984 is compared with 1981, 1982, and 1983. Total usage for 1984 based upon Shelby RECC's actual meter readings was only 17,885 kwh.<sup>6</sup> The Complainant testified that no major changes in energy usage had occurred

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2	1981	1982	1983
kwh	20,695	22,024	30,518

(Rhorer Exhibit E.)

<sup>3</sup> Rhorer Exhibit D.

4	1981	1982	1983
	2,278	1,985	11,786

(Rhorer Exhibit E.)

<sup>5</sup> T.E. at page 101.

<sup>6</sup> Rhorer Exhibit E and T. E. at page 87.

since 1980 and explained that a kerosene heater had always been in use at the house.<sup>7</sup> Furthermore, the 11,786 April 1983 kwh usage continued to appear abnormal in light of the April 1984 usage of 1,544 kwh.

All parties tacitly agreed to the use of 12 months of actual meter readings by Shelby RECC as a means of determining whether or not an adjustment for the Complainant's April 1983 bill should be made. Shelby RECC's response to the institution of that procedure indicated it was setting up the required meter readings and expressed no dissatisfaction with the use of that data to resolve the complaint.<sup>8</sup> It was not until the data were collected and a refund recommended based upon that data that Shelby RECC took issue with the procedure.<sup>9</sup> 807 KAR 5:041, Section 16(5), does not apply to the type of complaint here at issue. The dispute did not involve whether the Complainant's meter was running fast to which the procedure specified in 807 KAR 5:041, Section 16(5), would apply; the accuracy of the meter is within acceptable tolerances in that regard. There is no procedure specified in the Commission's regulations for handling the type of complaint raised in this matter. Likewise, 807 KAR 5:041, Section 9, does not constrain the Commission in the manner Shelby RECC advances. That regulation requires energy sold to be metered, but has no bearing whatsoever on whether a credit may be

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<sup>7</sup> T. E. at page 10.

<sup>8</sup> Rhorer Exhibit B.

<sup>9</sup> Rhorer Exhibit F.

required to be applied against future metered energy sales by Shelby RECC when the Commission determines that a customer has paid for too much electricity in the past.

Finally, assuming arguendo that underbilling occurred between September 1980 and April 1983, using an average annual consumption for 1981 and 1982 of 21,360 kwh plus an average annual underbilling of 3,870, the indicated annual bill would have equalled 25,230. When compared to the undisputed annual usage for 1984 of 17,885 kwh, a difference of 7,345 kwh/annually results, or 612 kwh/month. In the Commission's opinion, it is highly unlikely that the Complainant would be able to curtail usage to this extent in 1984 and maintain normal living conditions in an effort to obtain a refund or credit for the billing period in dispute. In fact, Mr. Dudley Bottom, Manager of Engineering at Shelby RECC, testified that he would have expected an increase in usage for 1984 compared with 1981 or 1982, if underbilling had been occurring.<sup>10</sup> Mr. Bottom also stated that it would be highly unlikely for a customer underbilling to the extent of 10,000 kwh to turn in a higher reading that would capture the entire amount of underbilling in just one month.<sup>11</sup> Thus, the Commission remains convinced that the 11,786 kwh April 1983 bill overstates the likely usage of the Complainant by 10,000 kwh, which may have occurred by the meter

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<sup>10</sup> T.E. at pp. 89-90.

<sup>11</sup> T.E. at pp. 83-84.

skipping a digit in the 10,000 kwh range or may be attributed to some other malfunction. Therefore, Finding No. 2 in the Commission's February 8, 1985, Order is modified to read as follows:

It is possible that the meter skipped a digit in the 10,000 kwh range or that some other undetected malfunction occurred. Regardless of the precise cause, the Commission is convinced that the April 1983 bill was abnormal by 10,000 kwh, based upon the monthly usage data for 1981-1984 and Shelby RECC's own estimate of expected usage, and that Shelby RECC has not demonstrated that the abnormality can be attributed to underbilling.

IT IS THEREFORE ORDERED that Shelby RECC's Petition for Rehearing of the February 8, 1985, Order be and it is hereby denied.

IT IS FURTHER ORDERED that the February 8, 1985, Order be and it hereby is modified as discussed above.

Done at Frankfort, Kentucky, this 21st day of March, 1985.

PUBLIC SERVICE COMMISSION

*Richard D. Tolman Jr.*  
Chairman

*[Signature]*  
Vice Chairman

*[Signature]*  
Commissioner

ATTEST:

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Secretary